



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 10/646,273   | 08/25/2003  | Richard L. Leach II  |                         | 9458             |
| 7590   | 05/04/2005  |                      | EXAMINER                |                  |
| Ernest S. Kettelson<br>KETTELSON LAW OFFICES, LTD.<br>Wynderidge Place<br>Post Office Box 2517<br>Joliet, IL 60434 |             |                      | WELCH, GARY L           |                  |
|  |             |                      | ART UNIT                | PAPER NUMBER     |
|  |             |                      | 3765                    |                  |
|  |             |                      | DATE MAILED: 05/04/2005 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                   |
|------------------------------|-----------------|-------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)      |
|                              | 10/646,273      | LEACH, RICHARD L. |
|                              | Examiner        | Art Unit          |
|                              | Gary L. Welch   | 3765              |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 January 2005.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment, filed 31 January 2005, has been reviewed and considered. Independent claims 1 and 2 are amended with claims 1-5 pending. Claims 6-8 were subjected to an election/restriction requirement in the first Office Action and are therefore canceled. The specification objection, raised in the first Office Action, is withdrawn in view of the amendment correction.

Applicant traverses the prior art rejection raised in the first Office Action regarding the amended claims with UK Patent Application to Mac Taggart (GB 2 250 908). Applicant states that Mac Taggart discloses articles of clothing which do not comprise a self heat system throughout all of the clothing article itself but merely comprises pockets in which heat generating materials may be inserted. Additionally, the independent claims are amended to require that "no parts of said article of clothing are removable therefrom and reattachable thereto". The applicant states that this limitation is to exclude a pocket-type garment with heat generating materials insertable into and removable therefrom.

#### Examiner's Response:

Firstly, Mac Taggart discloses a self heat system throughout all of the clothing article as described on page 10, line 34 to page 11, line 4 so as to apply heat generated to the torso, arms, legs, feet, hands and head.

Secondly, the examiner does not believe that the added recitation "no parts of said...re-attachable thereto" provides any structure that defines over Mac

Taggart. The pockets of Mac Taggart are sewn to the garment and are therefore "integral". The term "integral" was held not to be limited to a fabrication of the parts from a single piece of metal, but was inclusive of other means for maintaining the parts fixed together as a single unit. *In re Larson et al.*, 340 F 2d 965, 144 U.S.P.Q. 347 (C.C.P.A. 1965). Integral is sufficiently broad to embrace construction united by such means as fastening and welding. *In re Hotte*, 475 F 2d 644, 177 U.S.P.Q. 326 (C.C.P.A. 1973). The self heat system is desired to be removable from the garment, however, the garment can be disposed of after one use without the heat-generating materials being removed therefrom.

Additionally, the heat generating system of the instant invention has a plurality of heat generating disks disposed in "pockets" formed by folds (6, 8) and separated from one another as shown in figures 1 and 2 by sewing. The sewn or bonded pockets can be cut thereby removing the self heat system disks. Therefore, Mac Taggart discloses the invention as amended and the previous rejections disclosed in the first Office Action are maintained.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Mac Taggart (UK Patent Application 2,250,908).

Mac Taggart discloses an article of clothing 251 having a self-heat system 15 that provides a rise in temperature of the article of clothing when exposed to air and oxygen (Page 5, lines 5-34).

With regard to claims 3 and 4, the self-heat system 15 includes chemicals materials in combination which when exposed to air creates a chemical reaction that includes rise in temperature. The chemicals include iron, charcoal, sodium chloride and water (Page 5, lines 5-34).

With regard to claim 5, the article of clothing includes one or more portions in which the material of which said article of clothing is made includes said self-heat system thereof completely surrounds one or more body parts, such as an arm, a leg, the person's chest, the top portion of a person's head, and other respective portions of a person's body, with a continuously joined wall of such material, whereby the only way such article of clothing can be removed withdrawing the surrounded body part out from said continually joined wall of such material, whereby said article of clothing having said self-heat system cannot inadvertently fall away from such body portion it is intended to keep warm.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Elkins '347 and Faghri '369 disclose various articles of clothing providing a self-heat system that generates warmth throughout a person's body.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (571) 272-4996. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary L. Welch  
Primary Examiner  
Art Unit 3765

glw